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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE MAXINE M. CHESNEY, JUDGE, JUDGE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
VS.)	No. 18-cr-00465-MMC
)	
UNITED MICROELECTRONICS CORP.,)	
et al.,)	
)	
Defendants.)	San Francisco, California
_____)	

Friday, March 3, 2023

TRANSCRIPT OF PROCEEDINGS

APPEARANCES: (By Zoom Webinar)

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(Appearances continued, next page)

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Friday - March 3, 2023

10:01 a.m.

P R O C E E D I N G S

THE COURTROOM DEPUTY: Calling Criminal Case
No. 18-465, United States versus Fujian Jinhua Integrated
Circuit.

Will counsel please state your appearances for the record,
starting with government counsel.

MR. WALSH: I believe Ms. Vartain is intending to
enter. I wonder if she's in the waiting room.

THE COURT: Ms. Geiger?

THE COURTROOM DEPUTY: No, she is not.

MR. WALSH: All right. At's any rate, Nicholas Walsh,
Stephen Marzen and Nic Hunter for the United States. And
Ms. Vartain I believe will be signing in momentarily.

THE COURT: Okay.

MR. DiCANIO: Good morning, Your Honor. Jack DiCanio,
Matt Sloan and Emily Reitmeier for the defendant.

THE COURT: Very good. Thank you.

Well, all right. So we have this other communication
that's come in from the Ministry of Justice at the People's
Republic of China. And I think before we talk about this
response that we got, at least we're getting communication back
and forth with these people, after months of silence, if you
will.

But did you have a chance, Mr. DiCanio, to look further

1 into what the conversations were that the two witnesses had,
2 and how that was presented to whoever inquired from the
3 Ministry as to their preferences, if you will?

4 **MR. DiCANIO:** I did, Your Honor. And it was as I
5 indicated the last time, which was they were asked two
6 questions. The first question was: Are you willing to
7 testify? And they said yes. And they said, do you have a
8 preference for testifying remotely or in person? And they
9 said, preference for remote. But we did follow up with them
10 separately, and they both are very willing to travel and
11 testify live.

12 And my understanding, as part of this process by the MOJ,
13 they probably will be re-questioned about that, and they are
14 prepared to say -- they're prepared to travel to the United
15 States to testify.

16 **THE COURT:** Okay. Why do you think they will be
17 questioned again?

18 **MR. DiCANIO:** It's from the letter that was sent,
19 Your Honor. The letter talks about their two conditions. And,
20 the second condition being that the witnesses are willing to
21 travel back to testify.

22 **THE COURT:** I don't know who ought to convey that, in
23 the first instance. In other words, should they be getting
24 back to the Ministry in some fashion? Or should they be
25 waiting? And -- well, let's look for a minute at the rest of

1 this.

2 And I'm aware -- you know, their answer to Question 2 was
3 the wrong answer. And it's not just a question of
4 truthfulness, if they actually thought about what the rulings
5 were, and that their only choice was to come in person unless
6 there was some legal ground to base a request to testify
7 remotely. They should have said "We prefer to be there in
8 person."

9 In any event, when they go on here, they've got all kinds
10 of concerns. Assuming that these people are willing to come to
11 the U.S., are they going to get prosecuted? Can they be forced
12 to testify; something else? Can they get held up and
13 extradited while they're going through some other country while
14 arriving here or going home? What's the duration of any
15 assurances they have as to being prosecuted, et cetera.

16 Ms. Vartain has now appeared also in the hearing.

17 So, who would be conveying this information? How would it
18 be conveyed to the Ministry? They have all these questions.
19 You got any idea on that, Mr. DiCanio?

20 **MR. DiCANIO:** I do, Your Honor. The way that I
21 interpreted it, I think they were looking for a response from
22 the Court. However, obviously, these are representations that
23 the government has made to Jinhua in the form of the safe
24 passage agreement.

25 And so what I would think, Your Honor, is they're looking

1 for the Court to advise them on the responses, but I would
2 imagine that whatever response the Court were inclined to
3 respond, it would have to be: This is the representation of
4 the U.S. government.

5 **THE COURT:** Well, we could attach the agreement to
6 anything.

7 **MR. DiCANIO:** (Nods head)

8 **THE COURT:** But I don't know if the agreement makes
9 any reference to any action that would be taken or could be
10 taken to get their hands on him, or either of those witnesses
11 while they're in route, one way or the other.

12 What's that all about, by the way?

13 **MR. DiCANIO:** So Your Honor, this is how I interpret
14 it, because I do believe they have a copy of the safe passage
15 agreement that the government and Jinhua entered into, I
16 believe even before the trial started.

17 I interpret these questions as them trying to understand
18 the scope of that agreement, and maybe what it means. Because
19 these questions relate to the things that aren't specifically
20 addressed in the safe passage agreement.

21 So for instance, they understand that the government has
22 agreed not to arrest the individuals when they're in the United
23 States. So they ask: Okay, well what if they were to travel
24 to London on their way back to China? Will you seek their
25 arrest in London?

1 It's kind of clarifying questions, as I interpret the
2 questions. That's what I think is happening.

3 **THE COURT:** Well, I cannot -- I'm not going to try and
4 interpret this safe passage agreement. I wonder if it can be
5 -- whether there can be a supplement to address that from the
6 government, if they're willing to do that. To state that --
7 you know, what would happen if, like, for example, if they
8 thought one of these people committed perjury?

9 I don't envision anybody getting prosecuted for perjury.
10 But, just assume for a moment the government thought that that
11 was something they wanted to do, as opposed to just holding it
12 over someone's head so that they are more likely not to lie.

13 And so the government would go: Okay. We can arrest him
14 here in the U.S., our agreement says we can do that if they
15 commit perjury, and they got away from here -- because I think
16 that's correct, isn't it? Your agreement doesn't hold them
17 harmless from a perjury arrest, does it?

18 **MR. DiCANIO:** Correct, Your Honor.

19 **MS. VARTAIN HORN:** That's correct.

20 **THE COURT:** Okay. So let's say, oh, they got away
21 from us, and now they're in some country they can be extradited
22 from. Could they do that, as the government perceives this
23 agreement?

24 I'm not sure. Let's check with Ms. Vartain.

25 **MS. VARTAIN HORN:** Yes.

1 **THE COURT:** Okay. Her idea is if they got away but
2 there's somewhere they can get their hands on them, they would
3 do it. I guess they can't be extradited from China, right?

4 **MS. VARTAIN HORN:** Correct.

5 **THE COURT:** Okay. But if they got off and spend
6 overnight in Heathrow or something, I guess they could ask for
7 them to be picked up.

8 So this is something that I -- I would hesitate, though,
9 to make any representation about that.

10 So that's the third country idea, tied to perjury.

11 They also wanted some -- they thought what would be fair
12 as to how long they would be free of any kind of arrest or
13 detention, except for perjury, that it would last, they said,
14 from, you know, the time they came in until they leave, or 15
15 days from the time they complete their testimony.

16 In other words, if they stuck around here, and they didn't
17 leave, and 15 days had gone by and they -- in the interval
18 there, they could not be prosecuted. Maybe they were trying to
19 get their flight squared away or something.

20 But then after that, if they were still here, then they
21 could, I guess -- what? Be prosecuted or arrested for
22 something other than perjury?

23 Or, how broad is the current agreement? I don't have it
24 immediately in front of me. Maybe it's -- this.

25 **MR. DiCANIO:** Yes, so Your Honor, and I think this is

1 something that the MOJ understands. And that is: The
2 agreement doesn't cover any crime that would be committed while
3 they're in the United States. Meaning something new.

4 **THE COURT:** Okay.

5 **MR. DiCANIO:** And so that would include perjury; that
6 would include anything else they might do when they're here.

7 When we were discussing this with the government,
8 obviously -- and I understand why -- the government didn't want
9 a situation where they just stay indefinitely in the United
10 States, so there needed to be a return date. I forget now what
11 we had in the safe passage agreement. But --

12 **MS. VARTAIN HORN:** (Inaudible)

13 **MR. DiCANIO:** But I believe, Your Honor, that what
14 they're talking about is what you identified, which is: What
15 happens if there's some type of delay in getting them back?
16 Maybe they get sick, or maybe the flights get canceled and
17 there's some disruption. That they're not disadvantaged by
18 circumstances beyond their control.

19 **THE COURT:** Well, actually, if it runs from the time
20 they come until the time they leave, then the 15 days is
21 actually narrowing it. Because if it took a month to get them
22 out of here, they would be protected from any prosecution for
23 any past behavior, except for -- and then any new crimes, as
24 you say, including perjury.

25 They could be prosecuted -- you know, if they trash their

1 hotel room. They're not going to do that, but, you know, if
2 they did. Anyway, the government wouldn't be prosecuting them
3 for that. That would be a state malicious mischief or
4 something.

5 So that's why I don't have your agreement right here. If
6 it just runs from the time you get here until the time you
7 leave, that's broader than 15 days from the time you testify.
8 It's until you get out of here.

9 **MS. VARTAIN HORN:** I'm --

10 **THE COURT:** Maybe I have it -- do I have it in this
11 filing that's kind of a detached thing that got filed with no
12 cover sheet or anything? Just says "Exhibit 1"?

13 **MS. VARTAIN HORN:** Yes, Your Honor. I think,
14 anticipating that this would be the subject matter of today's
15 court hearing, we did deliver a chambers copy of what is Docket
16 546-1.

17 And it's -- Exhibit B is the in-effect safe passage
18 agreement.

19 **THE COURT:** Okay. Yeah, the government isn't going to
20 do any of these things.

21 Three days -- oh, this one is three days after the witness
22 leaves the stand. So they, they wanted -- so this is not from
23 the time you show up to the time you leave. This is from the
24 time you show up until three days after you testify. Whereas,
25 it looks like they would like -- the Ministry would like from

1 the time you arrive until they -- 15 days after you testify.

2 So a couple weeks more, it's a little less than a couple weeks
3 more. I don't know that that would be a particular problem.

4 Let me just read this (As read):

5 "The government agrees not to serve, arrest,
6 detain or otherwise take any action that
7 would prevent a Jinhua witness from freely
8 leaving the United States for his or her
9 conduct that occurred prior to their entry."

10 Okay. So the immunity from prosecution essentially is for
11 anything you did before you came here, and that's good for up
12 to three days after the witness's testimony is completed, at
13 which point, if -- if -- the government felt that the witness
14 had done something they want to prosecute them for and they're
15 here after that, I guess they could do it. But maybe that
16 could be extended if the Ministry wanted another 12 days or
17 something.

18 But right now, this agreement is not in accord with what
19 they are asking for. And we don't want to get into a
20 bargaining thing with them over that kind of a cutoff.

21 So -- I don't think the government, at least at this time,
22 has any knowledge of any crimes that these people have
23 committed, other than whatever their participation was in
24 getting this technology, which is a past behavior. So you
25 could talk about that, and whether you want to amend in some

1 way this -- if this letter reflects the agreement, then it
2 could be amended, unless the government is just digging in
3 their heels on that part.

4 So I don't think you're going to try to turn these people
5 into witnesses, are you, in some other prosecution?

6 Ms. Vartain?

7 **MS. VARTAIN HORN:** Your Honor, obviously the
8 government can't speak to what other government entities are
9 going to do, aside from the representations we made in this
10 letter.

11 At the time that we drafted this letter, we did
12 specifically carve out the ability to serve them with a trial
13 subpoena in the government's case-in-chief. But as everyone
14 knows, the government's case-in-chief is now complete.

15 **THE COURT:** Can you commit to your office not trying
16 to call them as a witness in some other case while they're
17 here? Item No. 2 in their list, on Page 1 of their letter says
18 (As read):

19 "Without the prior consent of the China side
20 and the witnesses, whether the witnesses,
21 after entering the United States as
22 requested, could be forced to testify in any
23 other cases, for any party involved in this
24 case other than Jinhua or on any other matter
25 not stated in the letter rogatory."

1 So they seem to think someone can make them testify in our
2 case which, again, nobody is trying to do. And they just don't
3 seem to get that point.

4 I don't care. I mean, I'm interested in hearing them.
5 But I have no power to force them to testify right now.

6 So, have you thought of any case that your office would
7 want to try and use these people in, while they're here?

8 **MS. VARTAIN HORN:** No, the government can commit to my
9 office.

10 **THE COURT:** Got it. You just don't know what some
11 other agency or office would do. But, would they even know
12 these people are here?

13 You're not going to send any more letters out saying: By
14 the way, in case you're worried, we're having these people
15 here.

16 **MS. VARTAIN HORN:** No.

17 **THE COURT:** They're not even going to know they're
18 here. Right? Who would know?

19 **MR. DiCANIO:** And Your Honor, I will tell you that
20 when we were discussing the safe passage -- obviously, I
21 understand the limitations that Ms. Vartain is talking about.
22 The only thing that we asked is that if the government was
23 aware of any other agency, --

24 **THE COURT:** Let --

25 **MR. DiCANIO:** -- to let us know, in good faith. If

1 they're not aware, we would accept their representation. And I
2 do recall them making that representation before the trial
3 started. And I would accept that.

4 I think what maybe the Ministry of Justice is wondering
5 is: Okay, we understand that the U.S. Attorney's office and
6 certain agencies have agreed, but what ability does that have
7 to bind other agencies?

8 And I think we just need to make that clear to them, that
9 it doesn't.

10 **THE COURT:** I don't know that they really are focusing
11 this question -- in other words, that they already know what
12 the government can do, because they -- you've shown them, I
13 guess, this letter? Or not?

14 **MR. DiCANIO:** I did, Your Honor. We did.

15 **THE COURT:** And they may say: There are certain
16 things that are not spoken of directly, and we would like to
17 know what they are.

18 And my thought in that regard is that if you and
19 Ms. Vartain -- in other words, the defense and the
20 government -- can agree to reassure the Ministry as to what the
21 government is agreeing to in this case, and to make clear if
22 you want, anywhere, that -- but be careful that you don't
23 emphasize it too much, with the idea that somebody's waiting in
24 the wings to pounce on them.

25 If it's made clear that at least the government at this

1 time is not aware of anybody else within the U.S. who has any
2 interest in these people, let alone an interest in using them
3 as witnesses, it may be that you can get either a new letter or
4 a supplement regarding this letter, or clarification regarding
5 this letter.

6 Then, it would seem to me, that if you wanted me to
7 respond as opposed to your simply submitting this to the
8 Ministry -- because if you can get something that you can use
9 from Ms. Vartain at all here, then I would suggest that, at a
10 minimum, that that be given to the Ministry. If you feel like
11 they're looking at something from me, as opposed to your just
12 answering their questions -- let's see how it starts.

13 I've already sent one letter. I don't have it in front of
14 me, unfortunately. I've got whatever -- the means of
15 salutation, a few things in there that can be cleared up -- I
16 mean that I already know now, so I don't have to ask about
17 that. As far as the guts of it, I would indicate that we've
18 met in an effort to clarify, and that there's been this
19 modification to make certain things clear.

20 And if you can think of any phrasing of trying to let
21 these people know that I am not ordering them to be here, my --
22 my ruling -- we can call it a ruling, maybe, instead of an
23 order. But, my ruling is that if they wish to testify, that
24 like all witnesses, they need to testify in person, unless a
25 health reason or some other -- it's primarily health -- unless

1 there's a health reason or some other legal reason why they
2 can't be here, you know.

3 **MR. DiCANIO:** (Nods head)

4 **THE COURT:** Such as lockdown, national lockdown,
5 something like that. So that they understand, I'm not forcing
6 them to come. They've said they want to be here. But, all
7 witnesses have to be treated equally. And we could just
8 indicate that the law requires that all witnesses be here,
9 absent certain exceptions.

10 And there may be language that, having spoken to these
11 people or at least heard what they've said, you think would be
12 a good way to convey that, in which case I'm happy to receive
13 any suggestions from anybody in that regard. I could make
14 something up that might be okay, but I don't want to confuse
15 them again. So -- but anyway, that's what I'm thinking, that,
16 it does require some amount of delay.

17 And Ms. Vartain has stated from the get-go, and I'm sure
18 she would want to put on the record that she doesn't want to
19 delay any further. But, given that we are engaged in this
20 conversation with the Ministry, I don't think it would be
21 appropriate to just stop now and say: Well, you have a date and
22 you didn't meet it, so you're stuck.

23 We can always take the first two, to get moving.

24 All your stuff is in the courtroom. I keep having trials,
25 and explaining to other juries that it's not the fault of the

1 lawyers in that particular case that the Court has all this
2 stuff in it that's kind of cluttering up. And not to think
3 that somebody's going to try and put all of these boxes of
4 evidence in front of them to be read.

5 But, anyway, that -- you're all there. You're very close
6 to me. I have all your papers that were filed in the
7 government's case. They're sitting there behind me, right next
8 to me, on the bench. So, near and dear to my heart. I have
9 all this material.

10 So, anybody want to suggest a plan of action? Even if you
11 object, Ms. Vartain, I feel like I have to give them a chance
12 to respond. So if there is an objection, it's --

13 **MS. VARTAIN HORN:** Okay.

14 **MR. DiCANIO:** Your Honor -- if I can, Your Honor, we
15 did make a proposal to the government yesterday when we got the
16 letter. They haven't had a chance to get back to us.

17 But what we would propose is that Skadden would take a
18 first effort at drafting a response consistent with our
19 discussions in the past, frankly, and our discussion today. We
20 would endeavor to try to get that over to the government, if
21 not today, then over the weekend.

22 And I'm pretty sure, based upon the questions, that
23 they're not controversial responses. At least, I don't think
24 so. And my guess is we could align on some proper phraseology.
25 And if we do that, then perhaps on Monday we would jointly

1 present to the Court kind of our proposed response with
2 language that we would agree on for the Court's consideration.

3 And then if the Court got comfortable with the response,
4 then we would endeavor to get it translated and get it over,
5 you know, back to the Ministry of Justice, and really try to
6 accomplish this in just a few days.

7 **THE COURT:** Yeah. I'm thinking that rather than my
8 just saying this is what the parties told me they agree to,
9 that it would be better if we had a clarification from the
10 government, itself, which, you could give them the proposed
11 language, and see if they're willing to write another letter or
12 however it should be done.

13 For example, right now you have a letter from the
14 government to you. Okay. I don't know if that's the best
15 format or not, but I think there should be something where the
16 government, itself, signs off on it. Because they're asking:
17 What is the government willing to do? And we have something
18 that's written already.

19 And it sounds like they just want to know how broadly --
20 you know, what's the breadth of this? And are there exceptions
21 and things? It's a little bit -- if somebody said: Okay,
22 here's a letter of recommendation, can you sign off on it? I
23 mean, you can give them the language and see if they can live
24 with it. That might be good. And not to say that it -- my,
25 then, responding to this letter is -- wouldn't happen. It's

1 just, I would say that as -- this is what they've said, and if
2 -- this is what they've told me it means. If you want me to
3 reiterate it, you can give me some language. As I say, I'm
4 happy to take it and take a look at it.

5 Mostly, you have more of a feel for what these people want
6 to hear and how it ought to be stated. And I'm a little
7 worried, since everything gets translated, no matter how
8 carefully I am in framing something that would sound great to
9 English speakers, that -- how certain words might get
10 translated. Like, I don't know, "little house with a garden
11 around it" or whatever they -- I can't read -- they're
12 pictures. Okay?

13 And I just -- I think that if there's any way that you've
14 come to know, or you can ask the firm you've been working with
15 that's based in China if they've got somebody who does
16 translations, how that would come out, and whether that would
17 be a good word to use or not, just in a real effort not to open
18 us up to misinterpretation, that's what I think we should do.

19 And the timing of all this, and whether you want to
20 wait -- for example, Ms. Vartain, would you want to have the
21 two people that have been approved testifying, I don't know, in
22 their bathrobe or whatever they're going to do over there, and
23 then wait to see what the Ministry says about the other two?
24 Or do you want to just wait and do them all together?

25 **MS. VARTAIN HORN:** Your Honor, I think what I -- what

1 the government would like to do at this juncture is identify an
2 answer to the recent correspondence, get that out the door as
3 quickly as possible, and not yet confront the question of
4 whether the -- I think it's three witnesses who have agreed to
5 testify, and the PRC has agreed may testify remotely.

6 I think I'd like not to answer -- I'd like to defer
7 answering the question as to how to handle the split between
8 the three and the two at this moment, please.

9 **THE COURT:** That's fine. That's fine. So should we
10 set some kind of a date? Just kind of taking guidance from you
11 at this point.

12 **MR. DiCANIO:** Your Honor, one of the things -- I'm
13 sorry. One of the things that I noticed is it does seem like
14 they're responding before the hearings. Which is a good thing.

15 So what I would suggest maybe as a good way forward is to
16 set another status conference, where I'd be able to communicate
17 through the client to them that the Court is setting another
18 status conference, we're going to be giving you the responses.
19 And the hope is that you will respond so that we can address
20 the situation at the next status conference.

21 That seems to be working. (Indicating quotation marks)

22 **THE COURT:** Okay.

23 **MR. DiCANIO:** The only thing I would ask, Your Honor,
24 is I would think we would need probably about two weeks to make
25 sure that there's enough time so that it's productive. That

1 would be the only ask.

2 **THE COURT:** All right. And Ms. Vartain, what's your
3 thought about this?

4 **MS. VARTAIN HORN:** I -- I agree with that. I think we
5 should set a date two weeks out. And the government will --
6 will talk to Mr. DiCanio and his colleagues about the right way
7 to go -- handle the back-and-forth on -- and by this, I mean
8 what's the right way to get a response.

9 But I do think the Court probably should be the -- I think
10 the government will propose a letter, --

11 **THE COURT:** Uh-huh.

12 **MS. VARTAIN HORN:** And the Court should enclose the
13 letter.

14 **THE COURT:** Yes. That's what I think. And I do think
15 it would be good for me to respond so that it looks like -- I
16 don't know, that -- official to official, in a sense. And I
17 think that shows a certain degree of respect for their process,
18 and country, essentially.

19 But again, as I say, I'm looking -- it doesn't have to be
20 a ghostwriter, but it would help to just have you take a look
21 and see what you think, Mr. DiCanio, might be good language,
22 and of course running it by the government so that they know
23 and have some thoughts about it. Or you can both take the
24 laboring oar, and just exchange whatever. But it's probably
25 easier for the defendant to say something first.

1 But after you've agreed on how the letter's going to go,
2 that's the government's -- it's going over their signature, so
3 they have the final word on that.

4 **MR. DiCANIO:** (Nods head)

5 **MS. VARTAIN HORN:** I think I'm inclined to draft
6 things that go under our own signature, ourselves. But as I
7 said, we will --

8 **THE COURT:** That's fine.

9 **MS. VARTAIN HORN:** -- off camera.

10 **THE COURT:** That's fine. But you guys are going to
11 talk about -- just to make sure you're all clear on what you
12 have agreed to. Then you write it down, what you've agreed to,
13 and then that's fine.

14 And then, but what I'd like them to do is to the extent
15 that -- and you can also propose, by the way, any language that
16 you want me to use. Frankly, I was just planning on saying
17 that: This is their agreement, and it's attached. And then,
18 if you want me to say that the parties have agreed this is what
19 it means, in some way, in response to these specific questions,
20 if you want me to do that, I can do that.

21 And -- but I really want to be able to make it clear to
22 them. And this -- both of you can take a shot at it. The only
23 reason I suggested, at least in the first instance, Mr. DiCanio
24 is because he's working with a firm that -- you know, they have
25 translators; they've got some idea of the niceties of language

1 over there.

2 But, I really want them to understand, nobody here is
3 ordering them to be here. The government isn't ordering them
4 to be here; I'm not ordering them to be here. I'm just
5 treating them like all other witnesses. That -- that's how I'm
6 doing it.

7 **MR. DiCANIO:** (Nods head)

8 **THE COURT:** And if we stay away from my ordering
9 anything, you know, I can -- that may be better.

10 So you are suggesting, everybody's suggesting a couple of
11 weeks. So let's take a look. I'm in trial right now, but that
12 should be okay.

13 Hang on. Okay. So today's the 3rd. So what's -- is that
14 a holiday? No. The 17th, I guess, is -- is that what
15 everybody is thinking, the 17th?

16 **MS. VARTAIN HORN:** That works for the government.

17 **MR. DiCANIO:** -- celebrate St. Patrick's Day,
18 Your Honor --

19 **THE COURT:** I don't have this marked with a
20 highlighter, but on the calendar it's showing there -- no,
21 okay, I'm supposed to go to a St. Patrick's Day party.

22 **MR. DiCANIO:** I'm just laughing, because that's my
23 birthday, Your Honor.

24 **THE COURT:** Oh, it is? On St. Patrick's Day?

25 **MR. DiCANIO:** It is.

1 **THE COURT:** Well, DiCanio.

2 **MR. DiCANIO:** That's why my middle name is Patrick.

3 **THE COURT:** Aha. Maybe you're an O'DiCanio. But,
4 anyway.

5 All right. So I'm going to put the matter over, then, for
6 a status conference to March 17. And I guess 10:00 worked for
7 people. Should we say 10:00 again?

8 **MR. DiCANIO:** Yes, Your Honor.

9 **THE COURT:** All right. At 10:00. I'm not sure what
10 hearing we might have scheduled, or case managements, but we
11 shouldn't be too long. We're only about five minutes over when
12 my case managements start, and are waiting.

13 Okay. So --

14 **MS. VARTAIN HORN:** Your Honor?

15 **THE COURT:** Yeah.

16 **MS. VARTAIN HORN:** May I add one more potentially info
17 matter?

18 As you know, the parties for many years have worked many
19 things out, without your assistance. But to the extent we need
20 the Court, we'll reach out to Ms. Geiger and ask for an interim
21 hearing.

22 I say that because I -- the government is not likely to,
23 in any large way, meaningful, big way, extend -- expand the
24 terms of the safe passage agreement that it negotiated
25 carefully and for a long period of time.

1 I am going to look closely at whether there are things we
2 can do, to further where we're at. But in case we need the
3 Court, I just wanted to flag that for Your Honor.

4 **THE COURT:** That's fine. No, that's fine. And if you
5 get in touch with her, and you need some date, we can talk
6 about that. If you needed a hearing but we're close to the
7 status conference, we might just have the status conference and
8 talk about that then.

9 It doesn't sound like you would change much in terms of
10 the core of your agreement. But, take a look at those three
11 versus 15 days. Because that's not the biggest deal in the
12 world. And, given how far they would be coming from, some of
13 the -- just things that have been happening -- frankly, I am
14 delighted that they are just going forward, one way or the
15 other, with this particular case without -- because, I mean,
16 our government and their government have not been on the best
17 of terms in these last weeks, months. And the fact that they
18 haven't just said: Look, we're not doing anything with you
19 folks really is somewhat encouraging. So, I really didn't
20 think we were going to hear back from them.

21 So, okay. We've got the date, March 17. You can get in
22 touch before that if you need to. And, okay. Everybody just
23 keep thinking optimistically, if we can. And, okay.

24 **THE COURTROOM DEPUTY:** Your Honor, I just want to
25 confirm that the March 17th hearing is by Zoom.

1 **THE COURT:** Oh, yes.

2 **THE COURTROOM DEPUTY:** Okay.

3 **THE COURT:** Everybody -- I'm not making everybody come
4 out here from far and wide.

5 **THE COURTROOM DEPUTY:** Okay.

6 **THE COURT:** To talk about this. So, Zoom again. All
7 right. Okay.

8 **MR. DiCANIO:** Thank you.

9 **THE COURT:** See you in a couple weeks.

10 **MR. DiCANIO:** Thank you, Your Honor.

11 **THE COURT:** All right. Thank you.

12 **MR. WALSH:** Thank Your Honor.

13 (Proceedings concluded)
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CERTIFICATE OF REPORTER

I, BELLE BALL, Official Reporter for the United States Court, Northern District of California, hereby certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.



/s/ Belle Ball

Belle Ball, CSR 8785, CRR, RDR

Sunday, April 2, 2023